IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 2579 of 2005

Between:

Md. Khaja Moinuddin S/o. Late Md. Jamaluddin,
R/o. H.No. 1-7-177, Revenue Colony,

Subedari, Hanamakonda,
Warangal.

..... PETITIONER

AND

1 The Senior Regional Manager, Food Corporation of India,
A.P. Region, HACA Bhawan, Hyderabad.
2 The District Manager, Food Corporation of India,
Nalgonda District Office, Nalgonda District.
3 The District Manager, Food Corporation of India,
Warangal, Wanrangal DIstrict.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of MANDAMUS or any other appropriate writ (i) declaring the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the F.C.I. Staff Regulations 1971 is illegal (ii) declare the action of the respondents in issuing the final orders of recovery vide order No. Vig.3(1)/2001/9 dt. 31-1-2005 issued by the second respondent as illegal, arbitrary and violative of principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: Mr. G.VIDYASAGAR

Counsel for the Respondents.: Mr. B.ANJANEYULU

The Court made the following :

ORDER:

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At the request of the learned counsel appearing on both sides, the main writ petition is taken up for hearing and disposal.

2. Questioning the Order No. VIG.3(1)2001/9 dated 31-01-2005 issued by the 2nd respondent, this Writ Petition is filed.

3. It is brought to the notice of this Court by the learned standing counsel appearing for the respondents that as against the impugned order, statutory appeal lies to the 1st respondent within 45 days from the date of receipt of the said order. The learned standing counsel also submitted that till the disposal of the appeal, they will not pursue the recovery of monthly instalments from the petitioners.

4. Therefore, without going into the merits of the case as there is a statutory right of appeal against the impugned order, this Court is of the view that the petitioners can as well avail the said remedy by filing the appeal before the competent authority.

5. In the result, the writ petition is disposed of directing the petitioners to file statutory appeal before the competent authority, which shall be considered and disposed of by the appellate authority within three months from the date of filing of the appeal. In the meanwhile, the respondents are directed not to recover the monthly instalments from the petitioners in pursuance of the impugned proceedings. No costs.

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(K.C.BHANU,J)

16th February, 2005.

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To

1 The Senior Regional Manager, Food Corporation of India,
A.P. Region, HACA Bhawan, Hyderabad.

2 The District Manager, Food Corporation of India,
Nalgonda District Office, Nalgonda District.

3 The District Manager, Food Corporation of India,

Warangal, Wanrangal DIstrict.

4 One CC to MR.VIDYASAGAR

5 One CC to MR.ANJANEYULU

6 Two CD copies